

THE HONORABLE RONALD B. LEIGHTON

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

ANNIE McCULLUMN, NANCY RAMEY
and TAMI ROMERO, on behalf of themselves
and all others similarly situated,

Plaintiffs,

vs.

VANCOUVER HOUSING AUTHORITY,

Defendant.

CLASS ACTION

Case No. 3:15-cv-05150-RBL

ORDER PROVISIONALLY CERTIFYING
SETTLEMENT CLASSES, PRELIMINARILY
APPROVING PROPOSED CLASS ACTION
SETTLEMENT, APPROVING CONTENT AND
METHOD OF PROVIDING CLASS NOTICE, AND
SETTING SCHEDULE FOR HEARING ON FINAL
SETTLEMENT APPROVAL AND ATTORNEYS'
FEE AWARD AND EXPENSES

This matter came before the Court for consideration of the Plaintiffs' Motion for Provisional Certification of the Settlement Classes, Preliminary Approval of the Proposed Class Action Settlement, and Approval of Notice Plan ("Motion") made by Plaintiffs Annie McCullumn, Nancy Ramey, and Tami Romero. The Defendant Vancouver Housing Authority ("VHA") has informed the Court that VHA is not opposed to entry of this Order.

1 The Court, having considered the Motion, the declarations filed in support of the Motion, the
2 Settlement Agreement with its exhibits, and all other matters properly before the Court, HEREBY
3 ORDERS:

4 1. Pursuant to Federal Rule of Civil Procedure 23(c), the Court will provisionally certify
5 both proposed Settlement Classes for settlement purposes only.

6 2. The Damages Class is being provisionally certified under Federal Rule of Civil
7 Procedure 23(b)(3) and shall be defined as all adult heads of household who (a) executed a lease and
8 resided in Public Housing owned by VHA between April 1, 2004 and April 30, 2011; (b) paid an
9 income-based or minimum rent; and (c) were responsible for tenant-paid utilities. The Court makes the
10 following preliminary findings of fact and conclusions of law regarding the Damages Class (for
11 settlement purposes only):

12 a. The Damages Class is sufficiently definite;

13 b. The Damages Class consists of close to nine hundred households and is so numerous that
14 joinder of all members of the Damages Class is impracticable;

15 c. There are questions of law and fact common to the members of the Damages Class;

16 d. The proposed Class Representatives for the Damages Class are Annie McCullum and
17 Nancy Ramey. Their claims are typical of the claims of the members of the Damages Class;

18 e. Plaintiffs Annie McCullum and Nancy Ramey and their counsel have fairly and
19 adequately represented and protected the interests of the Damages Class and will continue to do so;

20 f. Questions of law or fact common to Damages Class members predominate over any
21 questions affecting only individual members, and a class action is superior to other available methods
22 for fairly and efficiently adjudicating this controversy, in that:
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1 i. Members of the Damages Class do not have an overriding interest in individually
2 controlling the prosecution of separate actions;

3 ii. The economic damages suffered by individual Damages Class members are
4 modest compared to the expense and burden of individual litigation, making it impractical for
5 individual class members to seek redress for the alleged violations;

6 iii. No other litigation concerning this controversy has been commenced by any
7 Damages Class member;

8 iv. Concentration of litigation is desirable so that all claims can be resolved in one
9 forum; and

10 v. A class action under Federal Rule of Civil Procedure 23(b)(3) can be maintained
11 here without undue difficulty;

12 g. Plaintiffs Annie McCullum and Nancy Ramey have standing, will adequately represent the
13 Damages Class, have no conflict of interests with Class Members, and should be appointed Class
14 Representatives for the Damages Class; and

15 h. Columbia Legal Services and its attorneys are qualified, competent counsel with sufficient
16 resources, who have fairly and adequately represented the interests of the Damages Class, will continue
17 to do so, and should be appointed Class Counsel for the Damages Class.

18 3. The Declaratory and Injunctive Relief Class is being provisionally certified under Federal
19 Rule of Civil Procedure 23(b)(2) and shall be defined as all adult heads of households who (a) executed
20 a lease and currently reside in Public Housing or Covered Housing owned by VHA at the time the Court
21 enters a Final Order and Judgment, or who will execute a lease and reside in Public Housing when the
22 non-monetary relief provisions of Subsection 3.7 of the Settlement Agreement remain in effect; (b) pay
23 or will pay an income-based or minimum rent; and (c) are or will be responsible for tenant-paid utilities.
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1 The Court makes the following preliminary findings of fact and conclusions of law regarding the
2 Declaratory and Injunctive Relief Class (for settlement purposes only):

3 a. The Declaratory and Injunctive Relief Class is sufficiently definite;

4 b. The Declaratory and Injunctive Relief Class consists of more than two hundred
5 households and an unknown number of future class members making joinder of all members of the
6 Declaratory and Injunctive Relief Class impracticable;

7 c. There are questions of law and fact common to the members of the Declaratory and
8 Injunctive Relief Class;

9 d. The proposed Class Representatives for the Declaratory and Injunctive Relief Class are
10 Nancy Ramey and Tami Romero. Their claims are typical of the claims of the members of the
11 Declaratory and Injunctive Relief Class;

12 e. Plaintiffs Nancy Ramey and Tami Romero and their counsel have fairly and adequately
13 represented and protected the interests of the Declaratory and Injunctive Relief Class and will continue
14 to do so;

15 f. The alleged acts or omissions of Defendant VHA which are at issue in this litigation
16 apply generally to the Declaratory and Injunctive Relief Class, so that final injunctive relief or
17 corresponding declaratory relief is appropriate with respect to the Declaratory and Injunctive Relief
18 Class as a whole;

19 g. Plaintiffs Nancy Ramey and Tami Romero have standing, will adequately represent the
20 Declaratory and Injunctive Relief Class, have no conflict of interests with Class Members, and should be
21 appointed Class Representatives for the Declaratory and Injunctive Relief Class; and

22 h. Columbia Legal Services and its attorneys are qualified, competent counsel with
23 sufficient resources, who have fairly and adequately represented the interests of the Declaratory and
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1 Injunctive Relief Class, will continue to do so, and should be appointed Class Counsel for the
2 Declaratory and Injunctive Relief Class.

3 4. The Court finds that the Settlement Agreement was the result of informed, non-collusive,
4 protracted, and arm's length negotiations between competent counsel assisted by the Hon. Terrence
5 Carroll (ret.); that it falls within the range of reasonableness; and that it treats all Class Members fairly.
6 The Settlement Agreement appears to the Court on its face to be fair, adequate, and reasonable. The
7 Court therefore grants preliminary approval of the Settlement Agreement, and its terms are conditionally
8 approved, subject to final approval at the Fairness Hearing.

9 5. The Court, for purposes of this Order, adopts the definitions set forth in the Settlement
10 Agreement. All capitalized terms in this Order shall have the same meaning as in the Settlement
11 Agreement.

12 6. The Court approves the proposed method of dissemination of notice set forth in the
13 Settlement Agreement. The Court approves the content and distribution of the Notice of Proposed Class
14 Action Settlement and Right to Opt-Out with a standardized cover letter (attached hereto as Exhibits 1
15 and 2, respectively) and the Summary Notice (attached hereto as Exhibit 3). These documents and the
16 method of dissemination of notice meet the requirements of due process and Federal Rules of Civil
17 Procedure 23(c)(2) and 23(e)(1) and are reasonable and the best notice that is practicable under the
18 circumstances. The Notice of Proposed Class Action Settlement and Right to Opt-Out, standardized
19 cover letter, and Summary Notice provide the members of the proposed classes with the information
20 necessary to make an informed decision as to whether they should exclude themselves from the
21 proposed Settlement Classes or object to the approval of the proposed Settlement Agreement. The
22 Notice of Proposed Class Action Settlement and Right to Opt-Out shall be mailed with the standardized
23 cover letter to Class Members within thirty (30) Days of the date of this Order, as set forth in the
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1 Settlement Agreement. The Summary Notice shall be published in VHA's Resident Newsletter and *The*
2 *Columbian* newspaper and posted by both VHA and Class Counsel on their respective websites, as set
3 forth in the Settlement Agreement.

4 7. Class Counsel shall hold at least two meetings for Class Members as set forth in the
5 Settlement Agreement to discuss the terms and conditions of the proposed settlement and their right to
6 opt out or exclude themselves from the Damages Class, to object to the proposed settlement, and to
7 appear at the Fairness Hearing.

8 8. VHA shall notify the appropriate federal and state officials pursuant to the Class Action
9 Fairness Act of 2005, 28 U.S.C. § 1715.

10 9. Any member of the Damages Class who wishes to opt out or exclude him or herself from
11 the Damages Class to retain his or her right to bring a separate action against VHA shall send a
12 completed Opt-Out Form (attached to the Notice of Proposed Class Action Settlement and Right to Opt-
13 Out) by first-class mail, postage prepaid, to Class Counsel, postmarked no later than thirty (30) Days
14 before the Fairness Hearing. Any member of the Damages Class who fails to opt out or exclude him or
15 herself from the Damages Class by this deadline shall waive and forfeit any and all rights he or she may
16 have to opt out or be excluded from the Damages Class, and shall be bound by all terms of the
17 Settlement Agreement and by all proceedings, orders, and judgments in this Action.

18 10. Any Class Member who wishes to object to the fairness, reasonableness, or adequacy of
19 the Settlement Agreement must send a written statement setting forth his or her objection(s) by first-
20 class mail, postage prepaid, to the Court, Class Counsel, and VHA's Counsel, postmarked no later than
21 thirty (30) Days before the Fairness Hearing. The written statement must include (a) the Class
22 Member's name, address, and telephone number; (b) information demonstrating that the party objecting
23 is a member of one of the Settlement Classes; (c) the reasons why the Class Member objects to the
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1 settlement; and (d) any evidence and legal authority the Class Member wishes to bring to the Court's
2 attention in support of his or her objection(s).

3 11. Class Members may raise an objection either on their own or through an attorney hired at
4 their own expense, but a Class Member's hiring of an attorney shall not extend any of the deadlines set
5 forth in this Order. If a Class Member hires an attorney other than Class Counsel to represent him or
6 her, the attorney must, no later than thirty (30) Days before the Fairness Hearing, file and serve a notice
7 of appearance. Class Members or their attorneys intending to appear and speak at the Fairness Hearing
8 must send a notice of their intention to do so by first-class mail, postage prepaid, to the Court, Class
9 Counsel, and VHA's Counsel, postmarked no later than thirty (30) Days before the Fairness Hearing.

10 12. Any Class Member who fails to comply with paragraphs 10 through 11 above shall waive
11 and forfeit any and all rights he or she may have to object to the settlement or to speak at the Fairness
12 Hearing.

13 13. The Parties shall file any responses to objections no later than seven (7) Days before the
14 Fairness Hearing.

15 14. The motion for approval of Class Counsel's attorneys' fees and costs, including Class
16 Representative incentive payments, if any, shall be filed with the Court and posted on Columbia Legal
17 Services' website no later than sixty (60) Days before the Fairness Hearing. Any objections or
18 opposition to this motion shall be filed with the Court no later than thirty (30) Days before the Fairness
19 Hearing. Any reply in support of this motion shall be filed with the Court no later than seven (7) Days
20 before the Fairness Hearing.

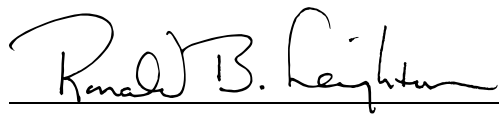
21 15. The Fairness Hearing shall be conducted on **July 31, 2015 at 1:30 p.m.** The Fairness
22 Hearing shall take place in Tacoma Courtroom B, at the United States District Court for the Western
23 District of Washington at Tacoma, 1717 Pacific Avenue, Tacoma, Washington 98402-3200. At the
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1 Fairness Hearing, the Court will consider whether to: (a) grant final certification of the Settlement
2 Classes; (b) sustain or overrule any objections to the proposed settlement; (c) approve the settlement as
3 final, fair, reasonable, adequate and binding on all Class Members (other than opt-outs); (d) approve the
4 payment of reasonable attorneys' fees and costs for Class Counsel and incentive payments to the Class
5 Representatives, if any, pursuant to Subsection 3.8 of the Settlement Agreement; (e) order the release of
6 all Class Members' claims pursuant to Section 11 of the Settlement Agreement with prejudice; and (f)
7 enter the Final Order and Judgment in accordance with the Settlement Agreement.

8 16. Pending further orders by this Court, all proceedings and case scheduling deadlines in
9 this Action, other than proceedings pursuant to this Order, shall be and hereby are stayed.

10 17. If the Settlement Agreement is not finally approved, or if the Effective Date does not
11 occur for any reason, (1) the preliminary findings of fact and conclusions of law set forth in this Order
12 shall be of no further force or effect; (2) the provisions of the Settlement Agreement pertaining to
13 termination will apply; and (3) the Parties shall jointly request a status conference with the Court to
14 establish a case schedule.

15 DATED this 23rd day of April, 2015.

16 

17 RONALD B. LEIGHTON
18 UNITED STATES DISTRICT JUDGE

19 PRESENTED BY:

20 COLUMBIA LEGAL SERVICES

21 s/ Gregory D. Provenzano
22 Gregory, D. Provenzano, WSBA #12794
23 Merf Ehman, WSBA #29231
24

ORDER PRELIMINARILY
APPROVING CLASS ACTION SETTLEMENT - 8
[Case No. 3:15-cv-05150-RBL]

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